

March 4, 2003

The Honorable Frank Chopp
PO Box 40600
Mod 2 Building - rm 104-E
Olympia, WA 98504-0600

Dear Speaker Chopp,

We are writing to express our concerns about HB 1876. The bill would overturn a recent decision by the Pollution Control Hearings Board (PCHB) regarding the adequacy of a water quality certification for the Third Runway project at SeaTac airport and require the use of the Synthetic Precipitation Leaching Procedure (SPLP) to determine whether the use of toxic fill material will result in a violation of water quality standards. Several substitute versions of the bill would allow the use of the SPLP test not only for the Third Runway project, but also in all water quality certifications statewide. Our organizations strongly believe that the proposed legislation, if passed, would severely weaken Washington's ability to protect the environment and public health from toxic pollution. For this reason, we ask that you not move the bill forward.

Our opposition to the bill should not be interpreted as opposition to the Third Runway project. While the adequacy of the SPLP has surfaced around the Third Runway project, we believe these issues have important statewide implications for the protection of Washington's water resources and public health. Our organizations want to ensure that when any project is constructed, it is done in a manner that fully protects the environment and public health.

We have serious concerns about the adequacy of the SPLP test in measuring whether the use of certain fill materials will violate water quality standards. Specifically,

1. The SPLP test cannot accurately predict leaching in soil of a majority of metals and organic contaminants. The Legislature appointed the Science Advisory Board (SAB) to review soil testing methods and decide how and when they can be used. After a yearlong study, the SAB determined that no evidence existed to prove the SPLP test could accurately predict the leaching of certain types of metals or organic contaminants such as polyaromatic hydrocarbons (PAHs) or polychlorinated biphenyls (PCBs). For these reasons, the SAB limited the use of the test to only those metals listed under the Model Toxics Control Act (MTCA). While the MTCA rules do include a provision to allow the SPLP test to be used for other chemicals, this provision was to allow for an improvement in analytical procedure. It was not an endorsement for the ability of the SPLP method to accurately measure the leaching potential of all chemicals in all situations. This bill takes language intended to allow for the advancement of science and instead uses it as a loophole to dump toxics in our waters.

2. The SPLP test is inappropriate for determining whether water quality standards will be violated when fill material is directly placed in waterways. The SPLP test only looks at a single chemical factor, acid rain, and fails to consider any other chemical or biological processes

occurring on site. The SPLP test is only useful for measuring pollutants when water leaches through the fill. It is not accurate in determining what happens to pollutants in fill material that is dumped straight into a waterway—which is the only reason a section 401 water quality certification is issued. This bill would create a loophole and require the use of the SPLP test in circumstances that it is not intended to be used.

3. There are serious questions about the ability of the SPLP test to detect toxic contaminants in fill material that failed to meet MTCA method A sites. The PCHB determined that the SPLP test failed to detect toxic contaminants for fill material from 4 of the sites the Port of Seattle has already used even though the fill failed MTCA method A tests. This demonstrates that the SPLP test is not protective of our children and the environment in all circumstances.

Given all of these failures and questions around the accuracy of the SPLP test and the serious harm toxic pollution causes to our environment and public health, our organizations believe it is inappropriate for the Legislature to move forward on HB 1876. The issues around the SPLP test are highly complex and technical issues that have been carefully examined and the SPLP test has been found to be lacking, according to the data examined by Ecology, the SAB, and the PCHB.

We would be happy to share with you studies and information we have regarding the SPLP test. Please feel free to contact any one of us if you have questions or concerns regarding this matter.

We appreciate the consideration you are always willing to give to environmental and public health issues. We look forward to working with you on this and future issues.

Thank you for your time and attention to what we believe is an important public interest issue.

Sincerely,

Holly Forrest, Chair, Legislative Committee
Sierra Club Cascade Chapter

Robert Pregulman, Executive Director
Washington Public Interest Research Group

Gregg Small, Executive Director
Washington Toxics Coalition

Kathy Fletcher, Executive Director
People for Puget Sound

Jeff Parsons, Executive Director
Washington Audubon